

ORAL ARGUMENT SCHEDULED FEBRUARY 23, 2023

No. 23-3001 (UNDER SEAL)

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

IN THE MATTER OF THE SEARCH OF THE FORENSIC COPY OF THE
CELL PHONE OF REPRESENTATIVE SCOTT PERRY

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Case No. 22-sc-2144 (Under Seal)

**APPELLANT'S RESPONSE TO MOTION OF THE
REPORTERS COMMITTEE FOR FREEDOM OF THE
PRESS TO UNSEAL JUDICIAL RECORDS**

John P. Rowley III
(D.C. Bar No. 392629)
JPRowley Law PLLC
1701 Pennsylvania Avenue, NW
Suite 200
Washington, D.C. 20006
(202) 525-6674
john.rowley@jprowleylaw.com

John S. Irving
(D.C. Bar No. 460068)
E&W LAW, LLC
1455 Pennsylvania Avenue, N.W.,
Suite 400
Washington, D.C. 20004
(301) 807-5670
john.irving@earthandwatergroup.com

Stan M. Brand
(D.C. Bar No. 213082)
Stanley E. Woodward, Jr.
(D.C. Bar No. 997320)
BRAND WOODWARD LAW, LP
1808 Park Road N.W.
Washington, D.C. 20010

Counsel for Appellant Scott G. Perry

Appellant, Scott G. Perry (“Rep. Perry”), by and through counsel, hereby submits the following response to the Motion of the Reporter’s Committee for Freedom of the Press (“Reporters Committee”) to Unseal Judicial Records in this case.

The Reporter’s Committee requests that this Court unseal “the orders, briefs, and record in this appeal, subject – at most – to narrowly tailored redactions.” Mot. at 9. It argues that the balance of the six factors in *United States v. Hubbard*, 650 F.2d 293, 317 (D.C. Cir. 1980), require unsealing: (1) the need for public access to the documents at issue; (2) the extent of previous public access to the documents; (3) the fact that someone has objected to disclosure, and the identity of that person; (4) the strength of any property and privacy interests asserted; (5) the possibility of prejudice to those opposing disclosure; and (6) the purposes for which the documents were introduced during the judicial proceedings.

Rep. Perry acknowledges the First Amendment rights of the Press and the public’s interest in the issues presented in this case. However, the partial unsealing of filings would potentially result in unfair prejudice to Rep. Perry. The release of partially redacted documents, where the redactions withhold pertinent facts, would promote an incomplete understanding of the communications at issue and the Speech or Debate privileges that Rep. Perry has asserted over those records.

Accordingly, Rep. Perry objects to the release of partially redacted documents in this case and the opening of oral argument to the Press and public. He requests that this Court maintain the seal at least until it has an opportunity to consider and resolve the important issues presented by this case.

Dated: February 10, 2023

Respectfully submitted,

JPRowley Law PLLC

/s/ John P. Rowley III

John P. Rowley III
(D.C. Bar No. 392629)
1701 Pennsylvania Avenue, N.W., Suite 200
Washington, D.C. 20006
(202) 525-6674
john.rowley@jprowleylaw.com

E&W LAW, LLC

/s/ John S. Irving

John S. Irving
(D.C. Bar No. 460068)
1455 Pennsylvania Avenue, N.W., Suite 400
Washington, D.C. 20004
(301) 807-5670
john.irving@earthandwatergroup.com

BRAND WOODWARD LAW, LP

/s/ Stan M. Brand

Stan M. Brand
(D.C. Bar No. 213082)
Stanley E. Woodward, Jr.
(D.C. Bar No. 997320)
1808 Park Road N.W.
Washington, D.C. 20010
Stanley@BrandWoodwardLaw.com

Counsel for Appellant Scott G. Perry

CERTIFICATE OF COMPLIANCE

This motion complies with the type-volume requirements of Federal Rule of Appellate Procedure 27(d)(2) and contains 277 words. It also complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the typestyle requirements of Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Office Word in 14-point Times New Roman font.

Dated: February 10, 2023

Respectfully submitted,

/s/ John P. Rowley III

John P. Rowley III

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 10, 2023, I electronically filed the foregoing response to the Motion of the Reporter's Committee for Freedom of the Press to Unseal Judicial Records with the Clerk for the United States Court of Appeals for the District of Columbia Circuit. I also emailed this response to government counsel.

Respectfully submitted,

/s/ John P. Rowley III
John P. Rowley III